Courts commonly base the liability of a gratuitous bailee on gross negligence. *Marshall* v. *Pontiac, Oxford, & Northern R. R. Co.*, 126 Mich. 45, 85 N. W. 242; *Gottlieb* v. *Wallace Wall Paper Co.*, 156 N. Y. App. Div. 150, 140 N. Y. Supp. 1032. But the term "gross negligence" has been applied to every conceivable degree of conduct. *Joslyn* v. *King*, 27 Neb. 38, 42 N. W. 756; *Spooner* v. *Mattoon*, 40 Vt. 300.

Because of this confusion, many courts adopted a more exact standard, namely, the same care that the gratuitous bailee took of his own chattels. *Merchants Nat. Bank* v. *Guilmartin*, 93 Ga. 503, 21 S. E. 55; *Rubin* v. *Huhn*, 229 Mass. 126, 118 N. E. 290. By this standard there could be no recovery in the principal case because the defendant was equally careless with his own premiums. A better standard is the care that the bailee as a reasonable man would use in regard to his own chattels. *Schermer* v. *Neurath*, 54 Md. 491; *Gottlieb* v. *Wallace Wall Paper Co., supra*. This is the same as the ordinary standard of due care, because the lack of remuneration is a circumstance under which the bailee acts. *Dinsmore* v. *Abbott*, 89 Me. 373, 36 Atl. 621. It would seem that this is the only clear uniform standard and should be adopted.

BANKS AND BANKING — COLLECTIONS — LIABILITY OF CORRESPONDENT BANK TO DEPOSITOR FOR DEFAULT OF DUTY. — Plaintiff deposited four drafts payable on demand with a Wisconsin bank for collection in Ohio. The Wisconsin bank sent the drafts to the defendant bank in Ohio, which bank negligently allowed seven weeks to elapse before presenting, causing the plaintiff substantial injury. The defendant demurred to the petition. *Held*, that the demurrer be sustained. *Taylor & Bournique Co.* v. *National Bank of Ashtabula*, 262 Fed. 168 (Dist. Ct. N. D., Ohio).

There are two main lines of decision on the nature of the contract made by a bank receiving commercial paper for collection at a distant place. See *City National Bank* v. *Cooper & Griffen*, 91 S. C. 91, 96, 74 S. E. 366, 368. The so-called New York rule treats the receiving bank as an independent contractor to collect the money and holds it directly responsible to the depositor for the correspondent's failure to collect. *National Revere Bank* v. *National Bank of Republic*, 172 N. Y. 102, 64 N. E. 799; *Harter* v. *Bank of Brunson*, 92 S. C. 440, 75 S. E. 696. The correspondent bank is the agent of the receiving bank and under no contractual obligation to the depositor. *Montgomery County Bank* v. *Albany City Bank et al.*, 7 N. Y. 459. Hence, only the receiving bank, and not the depositor, can sue the correspondent for failing to do its contractual duty. *Hyde* v. *First National Bank*, 7 Biss. (U. S. C. C. A.) 156. *Cf. Denny* v. *The Manhattan Co.*, 2 Denio (N. Y.), 115. See 1 MECHEM, AGENCY, 2 ed., §§ 1464, 1465. But, under the Massachusetts rule, the receiving bank undertakes only to select a reputable correspondent and to transmit the drafts promptly to it, making the latter directly responsible, as agent, to the depositor, as principal. *Fabens* v. *Mercantile Bank*, 23 Pick. (Mass.) 330; *Wilson* v. *Carlinville National Bank*, 187 Ill. 222, 58 N. E. 250. Each rule is based upon a conclusive presumption as to the intention of the parties, who probably had no actual intention on this matter. Therefore, practical considerations should control the decision and, in preventing multiplicity of action, the Massachusetts rule seems preferable. Nevertheless, it seems clearly settled that the federal courts have adopted the New York rule. *Exchange National Bank* v. *Third National Bank*, 112 U. S. 276; *Smith* v. *National Bank of D. O. Mills & Co.*, 191 Fed. 226.

BILLS AND NOTES — INDORSEMENT — INDORSEMENT UNDER ASSUMED NAME. — A fraudulently induced the defendant to believe that he was X; and thereupon the defendant gave A a check payable to order of X. A indorsed the check and sold it to the plaintiff, a *bona fide* purchaser. *Held*, that the

plaintiff could recover on the check. *Montgomery Garage Co.* v. *Manufacturers' Liability Ins. Co.*, 109 Atl. 296 (N. J.).

For a discussion of the principles involved in this case, see NOTES, p. 76, *supra*.

BILLS AND NOTES — PURCHASERS FOR VALUE WITHOUT NOTICE — RESTRICTIVE INDORSEE AS A HOLDER IN DUE COURSE — EFFECT OF THE NEGOTIABLE INSTRUMENTS LAW. — The payee of six promissory notes made by the defendant was indebted to the plaintiff. As collateral security for this debt he delivered the defendant's notes to the X Bank indorsed: "Pay to the order of the X Bank for credit account of the plaintiff." Unknown to either the plaintiff or the X Bank the consideration given for the notes had failed. The notes were dishonored at maturity. Subsequently the X Bank indorsed them to the plaintiff, who sues the defendant as maker. *Held*, that the plaintiff cannot recover. *Gulbranson-Dickinson Co.* v. *Hopkins*, 175 N. W. 93 (Wis.).

A restrictive indorsement for the benefit or use of a third person passes the legal title to the indorsee as trustee for the third person. *Hook* v. *Pratt*, 78 N. Y. 371; THE NEGOTIABLE INSTRUMENTS LAW, § 36 (3). See NORTON, BILLS AND NOTES, 3 ed., §§ 62–64. Where a trustee takes legal title for a valuable consideration paid by the *cestui que trust*, the trustee is treated as a purchaser for value. See *Stokes* v. *Riley*, 121 Ill. 166, 171. Taking a negotiable instrument as collateral security for a pre-existing debt is a parting with value. See BRANNAN, THE NEGOTIABLE INSTRUMENTS LAW, 3 ed., § 25. Hence the X Bank was a holder in due course at common law, and the plaintiff could have sued in its own name since a transferee from a holder in due course has all the rights of his transferor, even though the transfer is made after maturity. *Chalmers* v. *Lanion*, 1 Campbell, 383. This result seems eminently just, but it is hard to reach under the Negotiable Instruments Law. Section 37, sub-section 2 gives an indorsee under a restrictive indorsement the right to bring "any action [on the instrument] that his indorser could bring." In the principal case the indorser could not have recovered from the defendant since there had been a failure of consideration; hence the X Bank was barred. And since "all subsequent indorsers acquire only the title of the first indorsee under the restrictive indorsement" the plaintiff cannot recover. THE NEGOTIABLE INSTRUMENTS LAW, § 37 (3). It is interesting to note that the late Dean Ames, to illustrate the injustice of section 37, stated hypothetically a set of facts almost identical with those in the principal case. See James Barr Ames, "The Negotiable Instruments Law — A Word More," 14 HARV. L. REV. 442, 446. And that the principal case destroys what little force there was to Judge Brewster's double-barrelled rejoinder that the case would never arise, and that equity would take care of it if it did. See Lyman Denison Brewster, "The Negotiable Instruments Law — A Rejoinder to Dean Ames," 15 HARV. L. REV. 26, 33.

CARRIERS — LIMITATION OF LIABILITY — EFFECT OF SHIPPER'S FAILURE TO READ VALUATION PROVISION IN UNIFORM EXPRESS RECEIPT. — Plaintiff shipped by express from one point in Michigan to another point in Michigan, a trunk, charges collect. The agent of the defendant gave him a receipt on the uniform blank, which he did not read, which declared that the liability of the express company was limited to fifty dollars, unless a greater value was declared and a corresponding increased rate paid. Plaintiff declared no excess valuation. The trunk was lost in transit. *Held*, that the plaintiff can recover full value. *Mosier* v. *American Railway Express Company*, 178 N. W. 81 (Mich.).

Carrier and shipper may stipulate, by a contract fairly entered into, that the loss, if any, shall not exceed a certain sum, at which the goods are valued. *Harris* v. *Packwood*, 3 Taunt. 264; *Hart* v. *Pennsylvania R. R. Co.*, 112 U. S.